IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

FRIDAY, THE 25TH MAY 2007 / 4TH JYAISHTA 1929

MFA.No. 1582 of 1996()

IC.14/1991 of E.I.COURT, KOZHIKODE
.....

APPELLANT/RESPONDENT:

THE REGIONAL DIRECTOR,
E.S.I.CORPORATION, THRISSUR.

BY ADV. SRI.T.V.AJAYAKUMAR

RESPONDENT/APPLICANT:

M/S.VASAVA TYRES REMOULDING WORKS,
SOUTH BAZAR, KANNUR THROUGH ITS MANAGING
PARTNER P.SUBODH, S/O.KRISHNAN.

BY ADV. SRI.M.RAMESH CHANDER
SRI.S.SANTHOSH

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 25/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & K.P.BALACHANDRAN, JJ.

M.F.A.NO.1582 OF 1996 (F)

Dated this the 25th day of May, 2007

J U D G M E N T

KOSHY,J.

This appeal is filed by the Insurance company challenging the order passed in E.I.C.No.14/1991 on the file of E.I.Court, Kozhikode. The above order was passed along with E.I.C.No.6/1992. The respondent approached the E.I.Court when demand of contributions was made for the period starting from 1.4.1990. According to the survey report made by the Inspector of appellant, the employee strength was 11 in the 1st respondent establishment. Since they were using power for the manufacturing process, corporation contended that they are liable to be covered with effect from 1.4.1990. The above survey report was challenged as survey report did not contain details of the employees. First respondent produced various records like muster rolls, wages register, ledger etc. before the court to show that they never employed 10 or more persons in

the establishment. After considering the evidence in detail, Insurance court found that 1st respondent establishment did not employ 10 or more persons on any day and therefore it is not a covered establishment and therefore allowed the application. Against E.I.C.No.6/1992 (common award with original award) M.F.A.No.967/1997 was filed. That was dismissed as delay in filing the appeal was not condoned. Apart from th above, E.I.Court found that based on the evidence adduced that 1st respondent establishment never employed 10 or more persons and it is not be liable to the covered. It is a finding of fact entered by the Tribunal. Under Section 82 of the E.S.I.Act appeal will lie only if there is a substantial question of law. There is no substantial question of law and hence appeal is dismissed.

J.B.KOSHY, JUDGE

K.P.BALACHANDRAN, JUDGE

prp

J.B.KOSHY & K.P.BALACHANDRAN, JJ.

M.F.A.NO.1582 OF 1996 (F)

J U D G M E N T

25th May, 2007